



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,541	09/20/2001	Paul N. Weinberg	05711.917	5876
36067	7590	02/16/2006	EXAMINER	
DALINA LAW GROUP, P.C. 7910 IVANHOE AVE. #325 LA JOLLA, CA 92037			VAUGHN, GREGORY J	
			ART UNIT	PAPER NUMBER
			2178	
DATE MAILED: 02/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/960,541

Applicant(s)

WEINBERG ET AL.

Examiner

Gregory J. Vaughn

Art Unit

2178

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


STEPHEN HONG
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: the Pearson reference discloses the claimed invention.

The examiner has considered the applicant's argument that "These families are not a subset of a partition as Pearson is silent on partitions" (page 2, last paragraph of the response filed on 1/17/2006). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a subset of a partition") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding applicant's argument that "These families are not a subset of a partition as Pearson is silent on partitions" (page 2, last paragraph of the response filed on 1/17/2006) the examiner, in an attempt to fully understand the claimed invention, has consulted the following dictionaries to establish the plain meaning of the terms in question. A "subset" is defined by Merriam-Webster's Collegiate Dictionary, copyright 2002, to be "a set each of whose elements is an element of an inclusive set". So, set B is a subset of set A, if all the elements of set B are in set A. By this definition set B and set A can be equal. A partition is defined by the Computer Dictionary of Microsoft Press Copyright 1997, to be "a subset of a database table or file". The examiner contends that Pearson's Figure 36.1 discloses a data set. A partition for the hierarchical structure of this data set could be set on any of the common values in any of the "Period", "Product" or "Region" columns. Pearson discloses these partitions in Figures 36.2 (partition between the Product and Region dimensions), 36.3 (partition between the Region and Period dimensions) and 36.4 (partition between the Region and Period dimensions).

Regarding applicant's argument that "the examiner has respectfully not shown the limitation "subset of a hierarchical structure" to exist in the Pearson reference (page 3, first paragraph of the response filed 1/17/2006). As explained above, Pearson's Figure 36.1 discloses a set of data with a hierarchical structure. Subsets of this hierarchical structure is shown in Figures 36.2, 36.3 and 36.4.

Regarding applicant's argument that Pearson does not teach the limitation of "dynamically applying said at least one pivot value to said family table during at least one pivot operation, wherein said at least one pivot operation generates a first preview table of said family data wherein said group of records in said first preview table depends on said at least one pivot value" (page 3, third paragraph of the response filed 1/17/2006) and the support from the originally filed specification, and "Pearson does not allow for this type of dynamic update but rather requires several other wizard based steps" (page 4, first paragraph of the response filed 1/17/2006), the examiner contends Pearson discloses the aforementioned limitations. The steps shown in Pearson's Figures 36.9-36.13 discloses the wizard steps a user would undertake to create the pivot table, however after the pivot table was created, the user of the system could modify the data in the underlying data structure (Pearson's Figure 36.1) and the preview tables shown in Figures 36.2 - 36.4 would dynamically be applied to create an updated preview table of the family data.